

Federal Trade Commission

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that it is a nonprofit organization or that it is affiliated or otherwise connected with any public institution or private religious or charitable organization.

(c) It is deceptive for an Industry Member that conducts its instruction by correspondence, or other form of distance education, to fail to clearly and conspicuously disclose that fact in all promotional materials.

(d) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, that a course or program of instruction has been recently revised or instructional equipment is up-to-date, or misrepresent its ability to keep a course or program of instruction current and up-to-date.

(e) It is deceptive for an Industry Member, in promoting any course or program of instruction in its advertising, promotional materials, or in any other manner, to misrepresent, directly or indirectly, expressly or by implication, whether through the use of text, images, endorsements, or by other means, the availability of employment after graduation from a school or program of instruction, the specific type of employment available to a student after graduation from a school or program of instruction, the success that the Industry Member's graduates have realized in obtaining such employment, including the percentage of graduates who have received employment, or the salary or salary range that the Industry Member's graduates have received, or can be expected to receive, in such employment.

NOTE TO PARAGRAPH (e): The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this chapter) provide further guidance in this area.

[63 FR 42573, Aug. 10, 1998, as amended at 63 FR 72350, Dec. 31, 1998; 78 FR 68990, Nov. 18, 2013]

§ 254.5 Misrepresentations of enrollment qualifications or limitations.

(a) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, the nature or extent of any prerequisites or qualifications for enroll-

ment in a school or program of instruction.

(b) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, that the lack of a high school education or prior training or experience is not an impediment to successful completion of a course or program of instruction or obtaining employment in the field for which the course or program of instruction provides training.

(c) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, the time required to complete a course or program of instruction.

(d) It is deceptive for an Industry Member to misrepresent, directly or indirectly, expressly or by implication, a student's likelihood of success in a school or program of instruction, including, but not limited to, misrepresenting the student's score on any admissions test.

[78 FR 68991, Nov. 18, 2013]

§ 254.6 Deceptive use of diplomas, degrees, or certificates.

(a) It is deceptive for an Industry Member to issue a degree, diploma, certificate of completion, or any similar document, that misrepresents, directly or indirectly, expressly or by implication, the subject matter, substance, or content of the course or program of instruction or any other material fact concerning the course or program of instruction for which it was awarded or the accomplishments of the student to whom it was awarded.

(b) It is deceptive for an Industry Member to offer or confer an academic, professional, or occupational degree, if the award of such degree has not been Approved by the appropriate State educational agency or Accredited by a nationally recognized accrediting agency, unless it clearly and conspicuously discloses, in all advertising and promotional materials that contain a reference to such degree, that its award has not been Approved or Accredited by such an agency.

(c) It is deceptive for an Industry Member to offer or confer a high school diploma unless the program of instruction to which it pertains is substantially equivalent to that offered by a

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resident secondary school, and unless the student is informed, by a clear and conspicuous disclosure in writing prior to enrollment, that the Industry Member cannot guarantee or otherwise control the recognition that will be accorded the diploma by institutions of higher education, other schools, or prospective employers, and that such recognition is a matter solely within the discretion of those entities.

[78 FR 68991, Nov. 18, 2013]

§ 254.7 Deceptive sales practices.

(a) It is deceptive for an Industry Member to use advertisements or promotional materials that misrepresent, directly or indirectly, expressly or by implication, that employment is being offered or that a talent hunt or contest is being conducted. For example, captions such as, “Men/women wanted to train for * * *,” “Help Wanted,” “Employment,” “Business Opportunities,” and words or terms of similar import, may falsely convey that employment is being offered and therefore should be avoided.

(b) It is deceptive for an Industry Member to fail to disclose to a prospective student, prior to enrollment, the total cost of the program of instruction and the school’s refund policy if the student does not complete the program of instruction.

(c) It is deceptive for an Industry Member to fail to disclose to a prospective student, prior to enrollment, all requirements for successfully completing the course or program of instruction and the circumstances that would constitute grounds for terminating the student’s enrollment prior to completion of the program of instruction.

[78 FR 68991, Nov. 18, 2013]

PART 255—GUIDES CONCERNING USE OF ENDORSEMENTS AND TESTIMONIALS IN ADVERTISING

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AUTHORITY: 38 Stat. 717, as amended; 15 U.S.C. 41–58.

SOURCE: 74 FR 53138, Oct. 15, 2009, unless otherwise noted.

§ 255.0 Purpose and definitions.

(a) The Guides in this part represent administrative interpretations of laws enforced by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. Specifically, the Guides address the application of Section 5 of the FTC Act (15 U.S.C. 45) to the use of endorsements and testimonials in advertising. The Guides provide the basis for voluntary compliance with the law by advertisers and endorsers. Practices inconsistent with these Guides may result in corrective action by the Commission under Section 5 if, after investigation, the Commission has reason to believe that the practices fall within the scope of conduct declared unlawful by the statute. The Guides set forth the general principles that the Commission will use in evaluating endorsements and testimonials, together with examples illustrating the application of those principles. The Guides do not purport to cover every possible use of endorsements in advertising. Whether a particular endorsement or testimonial is deceptive will depend on the specific factual circumstances of the advertisement at issue.

(b) For purposes of this part, an endorsement means any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the endorser and may be an individual, group, or institution.

(c) The Commission intends to treat endorsements and testimonials identically in the context of its enforcement of the Federal Trade Commission Act